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New York Teachers’ Lawsuit Over Religious Exemptions Allowed to Move Forward, Supreme Court Rules

A New York State Supreme Court judge today denied a motion to dismiss a lawsuit brought by New York City Department of Education workers who were denied religious exemptions from the COVID-19 vaccine mandate.

By **Brenda Baletti, Ph.D.**

16

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New York State Supreme Court Judge Ralph J. Porzio today denied the City's motion to dismiss a lawsuit brought by New York Department of Education (DOE) workers who were denied religious accommodation from the COVID-19 vaccine mandate.

Sujata Gibson, the plaintiffs' attorney, told The Defender the decision was “huge” for the plaintiffs:

> “Judge Porzio made the right decision, followed the law, and protected thousands of people who deserve their day in court and deserve relief from the outrageous religious discrimination that they faced.”

On May 18, Gibson argued against the motion by the city to dismiss DiCapua v. City of New York in Judge Porzio's Staten Island courtroom.

The lawsuit was filed in February by Teachers For Choice and other fired NYC DOE employees and was sponsored in part by Children's Health Defense (CHD) and CHD-New York.

The lawsuit alleges that defendants New York City and the New York City DOE, “harassed, denigrated, and discriminated against” workers seeking religious exemption when implementing the COVID-19 vaccine mandate.

In doing so, the defendants engaged in a continuing pattern of discriminatory conduct against the DOE workers in violation of the New York State Constitution, the New York State Human Rights Law, the New York City Human Rights Law and Article 78 of the Civil Practice Law and Rules.

The plaintiffs seek to have their jobs reinstated, back pay and benefits, seniority and pension credits restored.

Gibson told The Defender that well over 150 people attended the court session, which is just a fraction of the up to 7,000 people affected by the denial of religious exemptions.

She said the people who attended were dignified and sincere, which she thinks impressed the court, adding:

> “It's important for the court to see how many people are impacted …
>
> “People traveled for this appearance from out of state — who have had to move out of state. Some people took two hours on trains and buses, on public transportation to get here from other boroughs, and from other parts of the state.
>
> “It really means a lot to people. And it means a lot to the court to see how much it means to people.”

Plaintiffs petition for class action

The next hearing will take place on Aug. 14, when Judge Porzio may decide on the plaintiff's motion to certify class status for all DOE employees adversely affected by the alleged discriminatory policies.

He could also decide on the Article 78 question — which is whether to overturn the DOE's determination on the religious exemptions and offer relief to the plaintiffs.

Teachers for Choice
@teacher_choice · Follow

Rally & Court in Staten Island today 7-18-23

#TeachersforChoice backed by @ChildrensHD

Case adjourned, but on very good terms. We come back 8-14-23 11am (rally at 10am)

Ty @PIX11News for coming!

Get all updates at Teachersforchoice.org

10:31 AM · Jul 18, 2023

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The plaintiffs filed a motion for class certification for all people affected by the DOE's decisions on religious exemption, citing that all members of the class were affected by the same errors of law and that “the autogenerated, vague and conclusory denials” were all “arbitrary and capricious.”

The defendants opposed the motion to certify a class, arguing that the class definition was overly broad, that the class certification would require “mini-trials” for each class member and that the petitioners didn't meet the minimum requirements for commonality defined in New York law.

If Judge Porzio recognizes the class, and if the plaintiffs win relief, all members of the class would be reinstated, Gibson told The Defender. “All of their denials would be vacated as if they never happened, and they'd be reinstated with full seniority and no break in service and back pay and attorney's fees.”

But even if the workers win the motion to define the class and win relief, there will still be work to be done, Gibson said.

Once the denied exemptions are reversed, the violations of the New York State Constitution and the state and city human rights laws will still have to be litigated.

“We can prove our case for why the city should be liable not only for back pay but also for costs,” Gibson said. She added:

> “A lot of people had enormous, enormous collateral damage here.
>
> “They lost rent-controlled apartments, their homes were foreclosed. They've had to move. People have gotten severely sick. Some people took the vaccine and got ill, some people just got ill from all of the stress of being ostracized and discriminated against and bullied for the last two years. Some people have lost career opportunities. Most of them — really all of them — have been subjected to extreme pain and suffering.”

In Kane v. de Blasio, a case brought by many of the same plaintiffs and also represented by Gibson and supported by CHD in federal court, the 2nd Circuit Court of Appeals already held that DOE's religious accommodation policies were unconstitutional.

While resolution of the constitutional claims is pending in the appellate courts, plaintiffs were authorized to bring their statutory claims and seek certification as a class in New York State court after the district court declined to exercise jurisdiction over their state claims.

‘It felt like heresy tribunals’

In August 2021, New York City announced a COVID-19 vaccine mandate for DOE employees.

The city initially indicated it would not consider religious exemptions, but after a local court issued a temporary restraining order, the city agreed to adopt an accommodation policy.

The accommodation policy, however, was “facially discriminatory,” according to Gibson, because it was explicit that religious accommodation requests must be denied to anyone who is not a member of a “recognized” and “established” religious organization whose leader is against vaccination.

Christian Scientists were listed as the only example of a religion that a person could belong to and be granted a religious exemption.

“Right in its written policy, [DOE] required discrimination against unorthodox beliefs or most religions, basically,” Gibson said. “So [for example] they would deny all Catholics because the Catholic pope was vaccinated.”

On that basis, DOE denied religious exemptions to Christians, Jews, Buddhists and others, saying that although they believed that people's religious objects were sincere, they did not meet the criteria for exemption.

“It felt like heresy tribunals,” Gibson said.

DOE granted religious accommodation for only 162 out of 7,000 requests.

The remaining employees who were not vaccinated were involuntarily suspended without pay and ultimately terminated, with “problem” codes attached to their permanent employee records and hurdles to getting employment anywhere, not just at the DOE.

Ten DOE employees filed a lawsuit, backed by CHD, in federal court (Kane v. de Blasio). The district court denied their requested injunction against the mandate.

The plaintiffs appealed and they were joined on appeal by another group of educators denied relief in the lower court (Keil v. City of New York). The two lawsuits are currently consolidated under Kane v. de Blasio in the federal court.

New York's 2nd Circuit overruled the lower court, holding that the religious accommodation as it was written is unconstitutional and that it is illegal to deny a person religious accommodation “based on someone else's publicly expressed religious views — even the leader of her faith.”

The case was sent back to the lower court after the city promised to provide “fresh consideration” to the requests for religious exemption by convening a citywide panel that would use standards required by Title VII, the New York State Human Rights Law and the New York City Human Rights Law, and to reinstate people with back pay if they qualified under those standards.

“But the citywide panel continued to apply the same unlawful standards,” Gibson told The Defender.

The panel re-reviewed the petitions of the 10 employees who filed the lawsuit, but they reversed only one of them. “They sent them all an auto-generated email that said, ‘does not meet criteria,’ and that's it,” Gibson said.

Workers applying for religious exemption who went to the citywide panel were given the additional task of proving their exemption would not place an “undue hardship” on the city. But, Gibson said, under the city human rights law, the burden of demonstrating undue hardship rests with the city.

The plaintiffs in the consolidated cases again asked the 2nd Circuit court to stop the enforcement of the mandate in October 2022.

In February 2023, two days before oral arguments were set to take place at the 2nd Circuit for the consolidated federal lawsuits, Mayor Eric Adams announced the city would end the vaccine mandate for city workers.

However, those city workers who were fired as a result of not receiving the COVID-19 vaccine were not automatically reinstated. Instead, they have simply been told they can reapply for employment with the city.

Gibson told The Defender the withdrawal of the city's vaccine mandate makes no difference for those teachers and DOE employees who were fired due to their unvaccinated status.

“It doesn't change anything,” she said. “New York City's discriminatory policies ruined a lot of lives and they need to make amends and understand that this cannot happen again.”

While the federal Kane v. de Blasio case before the 2nd Circuit continues to challenge the near-blanket denial of religious exemption requests by teachers on federal constitutional grounds, the current lawsuit against the city claims the state constitution was violated on the basis of freedom of religion rights.

The state case that moved forward today seeks class-action status, “to get relief for every DOE employee and contractor that was denied reasonable religious accommodation under the discriminatory policies,” Gibson said.

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Brenda Baletti, Ph.D.

Brenda Baletti Ph.D. is a reporter for The Defender. She wrote and taught about capitalism and politics for 10 years in the writing program at Duke University. She holds a Ph.D. in human geography from the University of North Carolina at Chapel Hill and a master's from the University of Texas at Austin.

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Best Newest Oldest

etm567
a month ago

What about people who are not religious, but who were denied informed consent? Suddenly, if we're not observant members of a particular religion, we have to take vaccines arbitrarily mandated upon us by employers or the government? And, as it turns out, nobody got informed consent because they kept the adverse event side effects from us. Nobody was informed about the potential side effects, and without that there is no informed consent.

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> **Lionheart** → etm567
> 24 days ago
>
> That's exactly right, even non religious people should not be forced into 'mandatory' medical interventions experimentation! This whole thing is pure evil and criminal to the depths of hell 😤
>
> 3 0 Reply • Share ›
>
> **Carlos Perdue, Restless Native** → etm567
> 24 days ago
>
> 1A, Title VII etc may cover you if you word the exemption request well and make it clear you're not easy prey to be F'd with. My friend refused to associate with any particular religion. Refused to disclose "vaccine" status. Cited code, spoke of The God of Nature, his research etc. Laid out the grievances of the oppression by the company's mandate purveyors via his fellow employees. He did not threaten to sue, but it was clear he was very well-spoken, knowledgeable and capable of enforcing his rights in court. His employer exempted him and moved on to easier prey.
>
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GarySummers
a month ago

1.) '"Vaccination Expert" Dr. Alfredo Victoria *Dies Suddenly* at 42"'

The world has been shocked by the sudden death of a renowned "vaccination expert," Dr. Alfredo Victoria Moreno. Known to many from his regular appearances on "Mexico Today," Dr. Alfredo was a passionate advocate of Covid mRNA vaccines. The 42-year-old public health specialist died in his sleep on Monday due to a *myocardial infarction*, according to reports. He was otherwise in excellent health, with no known pre-existing medical conditions.

2.) "Dr. Richard Urso: '900,000 People Died In U.S.' Because of Pandemic Policy"
https://thenewamerican.com/...

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> **Lionheart** → GarySummers
> 24 days ago
>
> Sad, just sad that this Dr put his faith in 'evil science' and Big Pharma
>
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>
> **Carlos Perdue, Restless Native** → Lionheart
> 24 days ago
>
> Actually, it's fitting justice. How many people did he kill with his consensus government-pharma advice? No sympathy.
>
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BoredHousewife
a month ago

I'm looking forward to the lawsuits against organizations that held these "religious tribunals". Many were subjected to threats, intimidation, bullying, insults, and worse. Especially at the colleges, these tribunals were designed to inflict maximum stress. Isn't there a civil claim for intentional infliction of emotional distress?

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GarySummers
a month ago

"Biden administration planning lists of employees seeking 'Religious' vaccine exemptions".
Move comes amidst debate over OSHA COVID-19 vaccine mandate, Supreme Court challenge.

The federal departments of "Treasury, the Interior, Housing and Urban Development, Health and Human Services, and Transportation, as well as the General Services Administration and the Securities and Exchange Commission", have each published proposed rule-makings to implement "systems of records" tracking their workers' religious accommodation requests.
https://www.washingtontimes...

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bikingrn
a month ago

Very exciting news.Whenever I see Michael Kane hosting a show ,I am always saddened for the students (and their parents) who lost him as a teacher.Such a fighter. Continued courage to all !
The Greek Orthodox Archbishop (over the whole church in the US) forbid the priests to write letters in support of the religious exemptions. He is Turkish and only moved to the US a few years ago, so clearly someone had to direct him to do this. It very much confused me because it was always my understanding(at least in PA) that you did not have to have letters.

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tyrannystopper
a month ago

Excellent news.
Now for the CT "law" to be striken down.
They are forcing our children to vaccinate to attend public school and removed religious exemptions.

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Millicent Fenwick
a month ago

It isn't just people "dying unexpectedly..."

I couldn't stand to read the whole thing about vaccinated zoo animals:
https://markcrispinmiller.s...

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GarySummers
a month ago edited

BREAKING
1.) "Family reeling from "10-year-old's unexpected death" in Southfield"
Family struggling to comprehend after cousin's unexpected death

It's still not totally clear why Monea Pace died while she was at cheer practice. But the reality of her sudden passing has been hard to comprehend for her family.
https://www.fox2detroit.com...

2.) "KIRSCH: At least One Million Americans have been severely injured by covid jabs"
Conservatively speaking, it is safe to say that one million formerly healthy Americans are now permanently disabled due to having gotten "vaccinated" for the Wuhan coronavirus (Covid-19).

Independent journalist and investigator Steve Kirsch conducted a survey among his roughly 100,000 Substack subscribers back in May which found that a shockingly high number of jab recipients ended up developing serious symptoms. As many as 22 million had to receive some kind of medical attention while at least one million – and likely even more than that – can no longer function as they once did.
https://www.naturalnews.com...

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GarySummers
a month ago

"Maine to end COVID-19 Vaccine requirement for healthcare workers"

https://www.mainepublic.org...

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a month ago

"WHAT'S CAUSING *THE CANCER EXPLOSION*? (video)"
'A quick look into what's causing the cancer explosion.'

One of the toxic ingredients in the fake vaccine is likely "Thulium isotope tm-170" which is a weak Gamma and Xray emitter. It is used in dental Xray machines and pipe surveying machines. Being Xray it can pass out through the body, so being in the presence of a recently jabbed person could be like standing next to a mini Xray machine. Thulium 170 has a short half life of 128 days, its more or less going to be spent and undetectable after a year. *However, by that time it will have caused severe DNA damage that will not show up for years to come.*
https://www.brighteon.com/4...

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> **tyrannystopper** → GarySummers
> a month ago
>
> 5G is also to blame
>
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Carlos Perdue, Restless Native
24 days ago

"The plaintiffs seek to have their jobs reinstated, back pay and benefits, seniority and pension credits restored." ... "Once the denied exemptions are reversed, the violations of the NYConstitution and the state and city human rights laws will still have to be litigated. "We can prove our case for why the city should be liable not only for back pay but also for costs," Gibson said. She added: "A lot of people had enormous, enormous collateral damage here."
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Good. No punitives?

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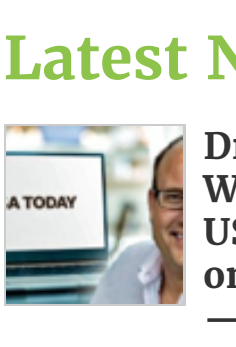

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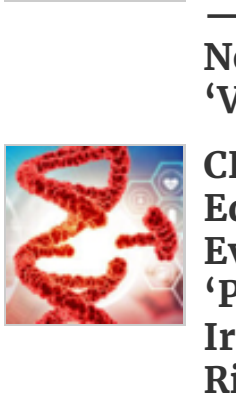

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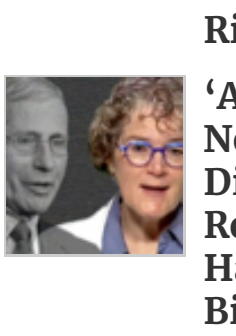

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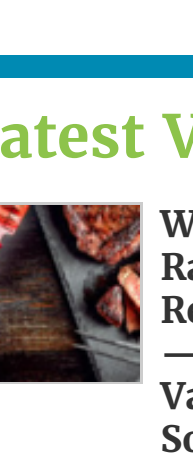

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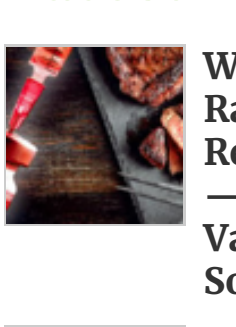

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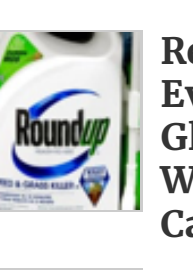

New Book by Doctors for COVID Ethics Details Dangers of mRNA Vaccines

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